

Message Text

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C O N F I D E N T I A L NEW DELHI 8111

E.O. 11652: GDS

TAGS: BIND, IN

SUBJECT: NATIONALIZATION OF GENERAL INSURANCE

REF: (A) NEW DELHI 7909; (B) MANTON LETTER TO LANDE, JUNE 29, 1973; (C) MEMORANDUM OF CONVERSATION (NEW DELHI), JULY 6, 1973; (D) NEW DELHI 7368

SUMMARY. ACCORDING TO INSURANCE COMPANIES' REPRESENTATIVE REGINALD ISAACS, GOI WILL DELAY PAYMENT OF COMPENSATION UNTIL ALL 1972 FINANCIAL STATEMENTS RECEIVED AND AUDITED. GOI UNWILLING TO COMMENT ON WHETHER NET ASSETS OF COMPANIES WILL BE PAID IN ADDITION TO AFTER-TAX COMPENSATION OR MERLEY USED TO REDUCE TAX ON COMPENSATION. END SUMMARY.

1. CONSENSUS OF JULY 10 MEETING OF DIPLOMATIC REPRESENTATIVES FROM INTERESTED COUNTRIES AT BRITISH HIGH COMMISSION WAS THAT FOREIGN INSURANCE COMPANIES MAY HAVE BEGUN CLAPPING BEFORE THE MATCH IS OVER. BRITISH REPRESENTATIVES REVIEWED THEIR ACTIVITIES AND PASSED OUT COPIES OF AIDE MEMOIRE HANDED OVER BY DIRECTOR OF REVENUE DEPARTMENT TO BRITISH (ATTACHED TO REF C). US EMBOFF GAVE RUNDOWN OF OUR RECENT CALL ON THE ADDITIONAL SECRETARY, INSURANCE (REF A). REGIONALD ISAACS, WHO REPRESENTS ALL FOREIGN NATIONALIZED INSURANCE COMPANIES IN INDIA, REPORTED
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ON HIS JULY 9 MEETINGS WITH GOI OFFICIALS. CONCERNING THE TAX

RATE ON COMPENSATION FOR LOSS OF MANAGEMENT RIGHTS, ISAACS CONFIRMED THAT THE 73 PERCENT INCOME TAX RATE WILL APPLY. HE ADDED THAT THE GOI HAS CLOSED ANY AVENUES FOR LEGAL APPEAL BY INTRODUCING A RETROSPECTIVE RIDER TO THE FY 1974 FINANCE BILL WHICH STIPULATES THAT THIS TYPE OF COMPENSATION WILL BE TREATED AS ORDINARY INCOME. ISAACS WAS TOLD THAT THE GOI HAD BEGUN TO MAKE PAYMENTS OF NET MANAGEMENT COMPENSATION AMOUNTS.

2. IN HIS DISCUSSIONS WITH R.D. THAPAR, ADDITIONAL SECRETARY, INSURANCE, ISAACS LEARNED THAT THE GOI WILL DALAY PAYMENT OF ANY OF THE COMPENSATION AMOUNTS SET FORTH IN THE INSURANCE NATIONALIZATION BILL UNTIL ALL COMPANY ACCOUNTS FOR CALENDAR YEAR 1972 ARE RECEIVED AND AUDITED BY GOI TAX AUTHORITIES. THAPAR SAID REASON FOR DELAY WAS TO AVOID SITUATION IN WHICH GOI MIGHT OVERCOMPENSATE A COMPANY WITH NET LIABILITIES AS OF DECEMBER 31, 1972. RESULTING PARLIAMENTARY OUTCRY COULD PROVE EMBARRASSING. ISAACS PLANS TO REPORT THIS INFORMATION TO LONDON. HE EXPECTS THAT FOREIGN INSURANCE COMPANIES WILL PROTEST DELAY, BUT HE SEES LITTLE HOPE FOR SPEEDING UP TIMETABLE, WHICH COULD PUSH PAYMENT OF COMPENSATION INTO 1974. HE NOTED THAT THE LEGISLATION CALLS FOR PAYMENT OF ACQUISITION AMOUNTS BY MARCH 31, 1973, AFTER WHICH A PENALTY OF 4 PERCENT INTEREST PER ANNUM WOULD BE LEVIED. LEGISLATION, HOWEVER, SETS NO FINAL DATE FOR COMPLETION OF PAYMENTS. ISAACS SUGGESTED THAT GOI PROCEED IMMEDIATELY WITH PAYMENT OF COMPENSATION AMOUNT LESS TAX RATE AND HOLD UP REMITTANCES OF PAYMENT UNTIL ACCOUNTS WERE AUDITED AND ANY RESULTING DEFICITS WERE REPAID TO THE GOI. THAPAR DID NOT FIND THIS PROPOSAL ACCEPTABLE AND COUNTERED WITH SUGGESTION THAT FOREIGN COMPANIES PUT UP WRITTEN GUARANTEE THAT THEY WOULD NOT REMIT COMPENSATION UNTIL AUDITS COMPLETED. ISAACS REJECTED CONCEPT OF WRITTEN GUARANTEE ON GROUNDS THAT THERE MAY BE DISAGREEMENT BETWEEN GOI AND COMPANIES OVER NET ASSET POSITION, PARTICULARLY IN THE CASE OF BRITISH COMPANIES WHO HAVE NOT YET SETTLED WITH THE GOI ON THE ISSUE OF UNEXPIRED RISK RESERVES.

3. ISAACS REPORTED THAT HE MADE NO PROGRESS IN HIS DISCUSSIONS WITH THE GOI ON THE EQUALLY IMPORTANT ISSUE OF THE RELATIONSHIP BETWEEN THE COMPENSATION AMOUNTS AND THE NET ASSET POSITIONS
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OF THE VARIOUS COMPANIES ON THE DATE OF ACQUISITION. ACCORDING TO THAPAR, THE GOI HAS NOT YET DECIDED HOW TO TREAT NET ASSETS. WE ALSO HAVE BEEN UNABLE TO DRAW OUT INSURANCE

DEPARTMENT OFFICIALS CONCERNING THE TWO FORMULATIONS CONTAINED IN REF. B. THEY WOULD ONLY SAY THAT THE MATTER IS UNDER CONSIDERATION. THE INSURANCE COMPANIES INSIST THAT LOW OPTION IS UNACCEPTABLE. IF GOI APPEARS HEADING THIS WAY, WE

SHALL MAKE APPROACH AT AN APPROPRIATELY HIGH LEVEL TO OBTAIN
FAIR SOLUTION.
MOYNIHAN

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